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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,246	03/25/2004	Roger Lee Asbill	RPS9 2004 0016 US1	6710
39698	7590	03/08/2007		
DUKE W. YEE YEE & ASSOCIATES, P.C. P.O. BOX 802333 DALLAS, TX 75380			EXAMINER TRAN, MY CHAU T	
			ART UNIT	PAPER NUMBER
			2629	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/08/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/809,246

Applicant(s)

ASBILL, ROGER LEE

Examiner

MY-CHAU T. TRAN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,8-11,17 and 18 is/are rejected.
- 7) ☒ Claim(s) 3-7,12-16,19 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 3/25/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Application and Claims Status

1. Applicant's preliminary amendment filed 10/26/2004 is acknowledged and entered. Applicant has amended the Abstract.

2. Claims 1-20 are currently pending and are under consideration in this Office Action.

Information Disclosure Statement

3. The information disclosure statement (IDS) filed on 03/25/2004 has been reviewed, and the references that have been considered are initialed as recorded in PTO-1449 form.

Claim Objections

4. Claim 20 is objected to because of the following informalities: Claim 20 appear to be depend on claim 19 since the limitation of claim 20 would further limit the subject mater of claim 19. Appropriate correction is required. However in order to further prosecution, claim 20 is interpreted to depend on claim 19.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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6. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. The limitation of '*a first surface and an electrically conductive first thin film above the first film*' of claim 1 is inconsistent with the apparatus disclose in the instant specification. See MPEP §2173.03. The limitation claims that there is an additional film (first film) between the surface and the "*electrically conductive first thin film*". However, the instant specification discloses an apparatus comprising a surface (ref. #102) and an electrically conductive thin film (ref. #104) above the surface (see specification pg. 3, lines 27-28; fig. 2 and 4). Accordingly, the limitation of '*a first surface and an electrically conductive first thin film above the first film*' of claim 1 is inconsistent with the apparatus disclose in the instant specification, and claim 1 and all its dependent claims are rejected under 35 U.S.C. 112, second paragraph. It is suggested that this limitation be amended to recite, "a first surface and an electrically conductive first thin film above the first surface" in order to overcome this rejection.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an

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international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1, 8-10, 17, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Phares (US Patent 5,815,141).

For *claims 1, 17, and 18*, Phares discloses a resistive touch screen (refers to instant claimed touch pad)(see e.g. Abstract; col. 1, lines 6-12; col. 3, lines 6-19). The touch screen comprises a substrate (ref. #12)(refers to instant claimed first surface/a touch pad substrate), a resistive layer that is a conductive layer (ref. #10)(refers to instant claimed electrically conductive first thin film/second electrically conductive thin film of claim 17), two conductive portions (ref. #20 and 20A)(refers to instant claimed second electrically conductive thin film/first electrically conductive thin film of claim 17), and an insulative cover layer (ref. #22)(refers to instant claimed second film/a touch pad film), wherein the resistive layer is above the substrate, and the conductive portions are spaced above the resistive layer, and the insulative cover layer is above the conductive portions (see e.g. col. 3, lines 53-55; col. 4, lines 10-24; fig. 1). The conductive portions are separated from the resistive layer by spaced apart small dots or islands (ref. #36)(refers to instant claimed spacer dots and claim 18) that are distributed in a uniform manner or non-uniform manner (see e.g. col. 4, lines 37-43). Furthermore, the limitation of ‘*an electrically conductive first thin film above the first film*’ of claim 1 is interpreted as the electrically conductive first thin film above the first surface, i.e. the ‘*first film*’ is synonymous with the ‘*first surface*’ wherein this interpretation is supported by the instant specification (see specification pg. 3, lines 27-28; fig. 2 and 4).

For *claims 8-10 and 17*, Phares discloses that the resistive touch screen comprises regions that have different pressure sensitivity in any configurations wherein one portion is designated for writing (refers to instant claimed signature block)(see e.g. col. 4, lines 45-63; col. 5, lines 7-26; col. 6, lines 42-67; figs. 2-3 and 6). The pressure sensitivity of the regions is base on the spacing (refers to instant claimed dot density) of the small dots or islands since it control contact between the conductive portions and the resistive layer (see e.g. col. 4, lines 45-63).

Therefore, the apparatus of Phares does anticipate the instant claimed invention.

9. Claims 1, 2, 8-11, 17, and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Kong et al. (US Patent Application Publication US 2004/0090431 A1; *filing date of 09/26/2003*).

For *claims 1, 17, and 18*, Kong et al. disclose a touch panel apparatus (see e.g. Abstract; paragraph [0003]; fig. 4). The apparatus comprises an upper film (ref. #52)(refers to instant claimed second film/a touch pad film), a first transparent conductive layer (ref. #54)(refers to instant claimed second electrically conductive thin film/first electrically conductive thin film of claim 17), a lower substrate (ref. #56)(refers to instant claimed first surface/a touch pad substrate), and a second transparent conductive layer (ref. #58)(refers to instant claimed second electrically conductive thin film/first electrically conductive thin film of claim 17) wherein the second transparent conductive layer is above the lower substrate, and the upper film is above the first transparent conductive layer (see e.g. paragraph [0043] thru [0045]; fig. 4) . Furthermore, the limitation of '*an electrically conductive first thin film above the first film*' of claim 1 is interpreted as the electrically conductive first thin film above the first surface, i.e. the '*first film*' is synonymous with the '*first surface*' wherein this interpretation is supported by the instant

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specification (see specification pg. 3, lines 27-28; fig. 2 and 4). The first transparent conductive layer and the second transparent conductive layer are separated by a plurality of dots spacers (ref. #60)(refers to instant claimed spacer dots and claim 18)(see e.g. paragraph [0043] thru [0045]; fig. 4). Although Kong et al. disclose that pressure sensitivity of the panel depend upon the spacing (refers to instant claimed dot density) of dot spacer (see e.g. paragraph [0017] and [0045]), and as a result the distribution of the dots, i.e. randomly or uniformly, due to the spacing as evidence by Hurst et al. (US Patent 3,911,215)(see e.g. col. 2, lines 42-59). Therefore, Kong et al. do suggest that the dots can be distributed randomly (non-uniformly) and claimed in claim 1.

For *claim 2*, Kong et al. disclose that the upper film comprises of polymer material such as polyethylene terephthalate (refers to instant claimed flexible polymer)(see e.g. paragraph [0046]). The lower substrate comprises of material such as glass or plastic (see e.g. paragraph [0046]). Although Kong et al. disclose that the type of material use for the substrate include glass or plastic, other type of material can be use for the substrate are known such as ceramic as evidence by Cross et al. (US Patent 7,019,734 B2)(see e.g. col. 5, lines 50-60). The transparent conductive layers use material such as Indium-Tin-Oxide (ITO), Indium-Zinc-Oxide (IZO), and Indium-Tin-Zinc-Oxide (ITZO)(refers to instant claimed metal-oxide compound)(see e.g. paragraph [0046]).

For *claims 8-11 and 17*, Kong et al. disclose that the panel can comprises two regions with different pressure sensitivity that depend on the spacing of the dots wherein one region is designated for writing (refers to instant claimed signature block)(see e.g. paragraph [0017];

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[0045]; [0056] thru [0058]; figs. 7 and 8). As illustrated in both figures 7 and 8, the panel comprises a perimeter portion.

Therefore, the apparatus of Kong et al. do anticipate the instant claimed invention.

Allowable Subject Matter

10. Claims 3-7, 12-16, 19, and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. The following is a statement of reasons for the indication of allowable subject matter:

A. The instant claim 3 is allowed for the reason that the cited prior arts do not teach or fairly suggest the presently claimed apparatus wherein *'the spacer dot density is in the range of 0.08 to 0.14 over a first portion of the first film'*.

B. The instant claim 12 is allowed for the reason that the cited prior arts do not teach or fairly suggest the presently claimed apparatus wherein *'the space dot density in the first portion exceeds the space dot density in the second portion by a factor in the range of 1.6 to 14'*.

C. Claim 19 is allowed for the reason that the cited prior arts do not teach or fairly suggest the presently claimed apparatus wherein *'a ratio of space dot diameter to space dot pitch in a first portion of the touch pad differs from a ratio of spacer dot diameter to spacer dot pitch in a second portion of the touch pad'*.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MY-CHAU T. TRAN whose telephone number is 571-272-0810. The examiner can normally be reached on Monday: 8:00-2:30; Tuesday-Thursday: 7:30-5:00; Friday: 8:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard A. Hjerpe can be reached on 571-272-7691. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

My-Chau T. Tran
March 4, 2007


MY-CHAU T. TRAN 3/4/07
PATENT EXAMINER